



BILLING CODE: 4510-29-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Coverage of Certain Preventive Services under the Affordable Care Act—Private Sector

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) revision titled, “Coverage of Certain Preventive Services under the Affordable Care Act—Private Sector,” to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201803-1210-001 (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-EBSA, Office of Management and Budget, Room 10235, 725 17th Street, N.W., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov.

Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Coverage of Certain Preventive Services under the Affordable Care Act information collection requirements applicable to the private sector. A covered health insurance issuer or third-party administrator providing or arranging payments for contraceptive services for participants and beneficiaries in plans (or student enrollees and covered dependents in student health insurance coverage) of eligible organizations must generally provide a written notice to such plan participants and beneficiaries (or such student enrollees and covered dependents) informing them of the availability of such payments. To satisfy the notice requirement, issuers and third-party administrators may use the model language set forth in final regulations issued on October 13, 2017, or substantially similar language. *See* 78 FR 39893. To avoid contracting, arranging, paying,

or referring for contraceptive coverage, an organization seeking to be treated as an eligible organization under the final regulations may self-certify—by using EBSA Form 700—that the organization meets the definition of an eligible organization. This ICR has been classified as a revision for two reasons. First, the information collection requirements related to for-profit firms and not-for profit institutions were previously approved under separate OMB Control Numbers (1210-0150 and 1210-0152). The Department is now combining the collections, as the requirements are identical for all private sector respondents. In addition, the clearance is being revised to align the approval with injunctive activity by suspending the information collection requirements related to the notice to enrollees about the availability of separate payments for contraceptive services and the notice of revocation of an accommodation. *See California v. Health and Human Services*, et al., 281 F. Supp. 3d 806, 813 (N.D. Cal. 2017); *Pennsylvania v. Trump*, 281 F. Supp. 3d 553, 561 (E.D. Pa. 2017). Employee Retirement Income Security Act of 1974 section 508 authorizes this information collection. *See* 29 U.S.C. 1059.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210-0150. The current approval is scheduled to expire

on April 30, 2018; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on October 13, 2017 (82 FR 47769).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within thirty (30) days of publication of this notice in the *Federal Register*. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210-0150. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-EBSA.

Title of Collection: Coverage of Certain Preventive Services under the Affordable Care Act—Private Sector.

OMB Control Number: 1210-0150.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 5.

Total Estimated Number of Responses: 5.

Total Estimated Annual Time Burden: 4 hours.

Total Estimated Annual Other Costs Burden: \$1.

AUTHORITY: 44 U.S.C. 3507(a)(1)(D).

Dated: April 23, 2018.

Michel Smyth,

Departmental Clearance Officer.

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